

The Honorable Ricardo S. Martinez

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

ALDERWOOD SURGICAL CENTER, LLC, a  
Washington limited liability company;  
NORTHWEST NASAL SINUS CENTER P.S.,  
a Washington professional service corporation;  
and JAVAD A. SAJAN, M.D.,

Defendants.

NO. 2:22-cv-01835-RSM

**DEFENDANTS' MOTION FOR  
RELIEF FROM DEADLINES**

NOTE ON MOTION CALENDAR:  
April 26, 2024

TELEPHONIC HEARING REQUESTED  
Oral Argument Requested

DEFENDANTS' MOTION FOR RELIEF FROM  
DEADLINES -1 (2:22-cv-01835-RSM)

**Perkins Coie LLP**  
1201 Third Avenue, Suite 4900  
Seattle, WA 98101-3099  
Phone: 206.359.8000  
Fax: 206.359.9000

166457026

## I. INTRODUCTION and BACKGROUND

Defendants respectfully request the Court grant them relief from pending motions and discovery deadlines while Perkins Coie's motion to withdraw as counsel is decided by the Court.<sup>1</sup>

Just before the close of business on Friday, April 12, 2024, the State filed a motion for sanctions seeking to hold Defendants and Defendants' counsel "jointly and severally liable" for alleged discovery misconduct. Dkt. 96. As a direct consequence of the motion, Perkins Coie has moved the Court to withdraw as counsel of record for Defendants because the Rules of Professional Conduct ("RPCs") require termination of the representation of Defendants in this litigation. *See* Dkt. 102; *see, e.g., In re Marriage of Wixom*, 182 Wash. App. 881, 332 P.3d 1063 (2014). The Court was unavailable to hear Perkins Coie's motion today and advised Defendants move the Court for relief from deadline pursuant to LCR 7(j). Declaration of James Sanders in Support of Motion for Relief from Deadline ("Sanders Decl."), ¶ 2. The State refuses to agree to extend most deadlines or to stay the case until the Court can decide Perkins Coie's motion to withdraw as counsel and for Defendants to find successor counsel. *See* Dkt. 103 at ¶ 5. The State also refused to stipulate to the instant motion. *See id.*; Sanders Decl. ¶ 3.

While the motion to withdrawal is pending, there are numerous other motions pending in which Defendants, Defendants' counsel, and the State have upcoming response and reply deadlines, including today's deadline for Defendants' response to the State's motion for protective order. *See* Dkts. 94, 96, 99. Defendants' deadline to file a motion for reconsideration of the Court's order granting partial summary judgment is due by April 29, 2024. *Compare* Dkt. 97, *with* LCR 7(h)(2). The parties also had depositions scheduled and various discovery responses are pending for both parties. Sanders Decl. ¶ 4.

//

//

---

<sup>1</sup> A separate request seeking a stay of the case until Defendants' find successor counsel is addressed in Perkins Coie's Motion to Withdraw as Counsel. Dkt. 102.

## II. AUTHORITY AND ARGUMENT

Although “[a] motion for relief from a deadline should, whenever possible, be filed sufficiently in advance of the deadline to allow the court to rule on the motion prior to the deadline,” LCR 7(j), a motion for relief should be granted where “good cause” exists. *See Allstate Indem. Co. v. Lindquist*, No. C20-1508JLR, 2022 WL 1443676, at \*2 (W.D. Wash. May 6, 2022). When seeking an extension, the good cause standard primarily considers the diligence of the party seeking the extension. *Id.*; *see also Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). Courts consider whether the party seeking relief acted promptly once it became apparent that relief from the deadline was required. *Sharp v. Covenant Care LLC*, 288 F.R.D. 465, 467 (S.D. Cal. 2012). Absent bad faith on the party seeking relief or prejudice to the adverse party, requests for extension “should normally be granted” under the “good cause standard.” *Young v. Pena*, No. C18-1007JL, 2019 WL 461161, at \*1 (W.D. Wash. Feb. 6, 2019).

In light of the State’s motion for sanctions, the Rules of Professional Conduct require that Perkins Coie withdraw from representing Defendants in this litigation. Dkt. 103; Rule of Professional Conduct 1.16(a). Accordingly, earlier today, Perkins Coie has moved to withdraw as counsel, Dkt. 102, and by this motion seeks emergency relief for Defendants under LCR 7(j) while that motion is pending.

Since the State’s motion for sanctions was filed and while Perkins Coie evaluated its professional obligations following the same, Perkins Coie repeatedly asked the State to stay the proceedings, including today’s deadline to file an opposition to the State’s motion for protective order. Dkt. 103 at ¶ 5; Sanders Decl., ¶ 3. Although the State agreed to stay the deadline for a single discovery response and temporarily postpone a few depositions, it refused to extend or stay any other deadlines, including today’s deadline for Defendants’ response to the State’s motion for protective order. Dkt. 103 at ¶ 5. The State also declined to stipulate to this motion

1 so that it could be noted for the same day even after the Court advised Defendants to file a motion  
 2 for relief from today's deadline pursuant to LCR 7(j). Sanders Decl., ¶ 3.

3 Because RPC 1.16 requires Perkins Coie to withdraw as counsel, Defendants and Perkins  
 4 Coie respectfully suggest that ethical and process considerations warrant that the pending motion  
 5 and discovery deadlines, including today's deadline to oppose the State's motion for protective  
 6 order, be temporarily stayed. *Cf. United States ex rel. McNall v. Pac. Ret. Servs., Inc.*, No. 16-  
 7 CV-00889-LB, 2019 WL 4085369, at \*3 (N.D. Cal. Aug. 29, 2019), *aff'd sub nom. McNall v.*  
 8 *Pac. Ret. Servs., Inc.*, 859 F. App'x 48 (9th Cir. 2021) ("The court stays the case until September  
 9 30, 2019 to give the McNalls an additional opportunity to retain new counsel . . . By virtue of  
 10 the stay, the court extends the defendants' deadline to respond to the complaint from October 1,  
 11 2019 to October 31, 2019."). Defendants have been diligent in working with the State to extend  
 12 pending motions and discovery deadlines but due to the State's refusal to extend or stay those  
 13 deadlines, must seek relief from the Court. Defendants will be prejudiced if they are required to  
 14 respond to the State's motion for protective order while at the same time their counsel is  
 15 withdrawing. Such circumstances weigh in favor of a temporary stay of today's response  
 16 deadline, and all other court and discovery deadlines, to allow the Court to decide Perkins Coie's  
 17 motion to withdraw as counsel.

### 18 III. CONCLUSION

19 For the above-stated reasons, Defendant's seek an order temporarily staying all pending  
 20 motions and discovery deadlines, including today's deadline for Defendants' opposition to the  
 21 State's motion for protective order.  
 22  
 23  
 24  
 25

DATED this 17th day of April 2024.

*I certify this memorandum contains 938 words, in compliance with the Local Civil Rules.*

By: /s/ James Sanders

James Sanders, WSBA #24565  
Amanda J. Beane, WA Bar No. 33070  
Tiffany L. Lee, WSBA #51979  
Cara Wallace, WSBA #50111  
Reina Almon-Griffin, WSBA #54651  
Kyle D. Nelson, WSBA #49981  
**Perkins Coie LLP**  
1201 Third Avenue, Suite 4900  
Seattle, Washington 98101-3099  
(206) 359-8000  
*JSanders@perkinscoie.com*  
*ABeane@perkinscoie.com*  
*TiffanyLee@perkinscoie.com*  
*CWallace@perkinscoie.com*  
*RAlmon-Griffin@perkinscoie.com*  
*KyleNelson@perkinscoie.com*

Attorneys for Defendants Alderwood Surgical Center, LLC, a Washington limited liability company; Northwest Nasal Sinus Center P.S., a Washington professional service Corporation; and Javad A. Sajan, M.D.